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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,919	03/10/2004	Darla Lynn	03-273-PT-ISC	3266

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LAW OFFICE OF L. JACK GIBNEY
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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,919

Applicant(s)

LYNN, DARLA

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-10-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the applicant has failed to provide any structural relationships between elements. Specifically, there are no claimed attachments between the box, the planar member, the step, the hinges, or the stop mechanism.

With respect to claim 2, there is no antecedent basis for “the top surface”, “is” should read --wherein the flat planar member is--, and “flat planar member” should read --device--.

With respect to claim 3, “step” should read --device--, and “it” should read --the step--.

With respect to claim 4, there is no antecedent basis for “the mid section” or “the recessed step”.

With respect to claim 6, there is no antecedent basis for “the up position” or “the down position”. In addition, it is unclear with respect to what step is rotated approximately 110 degrees. It appears that the link arms of the hinges are the elements that are actually rotated 110 degrees. Note that step remains planar through rotation of the hinges.

With respect to claim 7, there is no antecedent basis for “the recessed step”.

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With respect to claims 4-7, line 1, “hinges” should read –device--, and the phrases “wherein they” should read –wherein the hinges--, “wherein it allows” should read –wherein the hinges allow--, and “wherein there are hinges” should read –wherein the hinges are-.

With respect to claim 8, “stop mechanism”, should read –device--.

With respect to claim 8, there is no antecedent basis for “the inner surface” or “the side”. Note that in claim 1, four sides have been recited, so it is unclear as to which side the applicant has referred.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 -8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson #5,005,667 in view of Seals et al #4,924,970. Anderson, as best seen in Figures 8-10, discloses a cabinet step assembly comprised of rectangular box 100, flat planar member 101, pivoting step 139, hinges 49, 49a, 52a, 52, hinge pins 50, 50a, (connected at the midpoint/midway of the side of the box) 51, 51a, 53, 53a, 54, 54a, and a stop mechanism defined by the back ends of slots 44 and 44a on the sides of the box 100. Anderson fails to disclose specific dimensions of the device, a handle/hole in the step, and hinge pins that are nut and bolt assemblies.

Seals et al disclose a cabinet mounted step assembly 10 having handles/slots 146 that serve as hand grips to allow access to the step portions 141, 142, of the step assembly, and thus

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assist in placement of the assembly in a use position. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the step assembly of Anderson with a hand-grip as taught by Seals et al, so as to assist in placement of the assembly in a use position. It would have been further obvious to dimension the step assembly components in a manner as claimed and provide nut and bolt hinge pins, this being no more than an obvious design choice, not expected to produce any new and unexpected results.

Conclusion

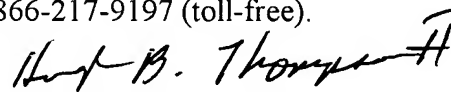
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knipper #2,592,912, Naumann #3,311,190, Willsher #5,009,282, Calmeise et al #5,641,034, Lundry #6,425,457, and Boykin #6,439,342 are cited to teach retractable step assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

August 19, 2005